

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ERIC T. ALSTON,

Petitioner,

ORDER

v.

Case No. 15-cv-325-bbc

JUDY SMITH,

Respondent.

Petitioner Eric T. Alston, a prisoner in the custody of the Wisconsin Department of Corrections, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner requests leave to proceed without prepayment of the filing fee. Petitioner has supported this request with an affidavit of indigency and a six-month trust account statement from the institution.

In determining whether to allow a prisoner to proceed without prepayment, this court uses the following formula. First, the court determines petitioner's average monthly deposits and average monthly balances for the six-month period immediately preceding the filing of the petition. If 20% of the greater of these two figures is \$5 or more, the petitioner is not eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, petitioner will be required to prepay whatever portion less than \$5 has been calculated.

Applying this formula, I find that petitioner is able to pay at least a portion of the filing fee. According to the trust account statement, in the past six months petitioner's average monthly deposits have been \$20.84 and 20% of this figure is \$4.17. Accordingly, I

will grant petitioner's application for leave to proceed without prepayment of the filing fee on the condition that petitioner pay \$4.17.

ORDER

IT IS ORDERED that:

1. Petitioner Eric T. Alston's motion for leave to proceed without prepayment of the filing fee is GRANTED. Petitioner has until July 8, 2015 to pay \$4.17 as a partial payment of the filing fee.
2. If by July 8, 2015 petitioner fails to make the partial payment or show cause for his failure to do so, this case will be dismissed without further notice.

Entered this day of June, 2015.

BY THE COURT:

PETER OPPENEER
Magistrate Judge